



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: ROBERT CONELIANO                      ART UNIT:  
SERIAL NO.: 09/893,325                              EXAMINER:  
FILED: JUNE 27, 2001                                CONFIRMATION NO.: 2055  
TITLE: DIARY MESSAGE SYSTEM

PETITION TO REVIVE ABANDONED APPLICATION  
UNDER THE PROVISIONS OF 37 C.F.R. §1.137(b)

Hon. Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D. C. 20231

RECEIVED  
OCT 18 2002

OFFICE OF PETITIONS

Dear Sir:

Applicant respectfully petitions the Commissioner for Patents to revive the above-identified patent application, pursuant to 37 C.F.R. §1.137(b), on the ground that such application was unintentionally abandoned (i.e., the entire period of delay in meeting the outstanding requirements in reply to the "Notice to File Missing Parts of Nonprovisional Application," dated August 20, 2001) for the reasons specified in this Petition.

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Date of Deposit October 16, 2002

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I hereby certify that this paper is being deposited with the U.S. Postal Service "Express Mail - Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to: Hon. Commissioner for Patents, United States Patent and Trademark Office, Washington, D. C. 20231.

  
Edwin D. Schindler, Reg. No. 31,459

October 16, 2002  
Date

The above-identified patent application was filed on June 27, 2001, without a Declaration or filing fees, in order to meet the priority deadline of June 29, 2001, set on the basis of a patent application filed in Australia on June 29, 2000.

On August 20, 2001, the Patent and Trademark Office issued its "Notice to File Missing Parts of Nonprovisional Application," indicating that a filing date of June 27, 2001, had been granted and which set an extendable two-month deadline of October 20, 2001, for filing the requisite Declaration, remitting the statutory filing fee, including the requisite surcharge, and submitting a substitute Specification in conformance with the page size requirements of 37 C.F.R. §§1.52 and 1.84.

During the first week of September 2001, the undersigned received his Australian patent associate's letter with the two priority documents required for perfecting the two priority claims based upon Australian patent applications filed on June 29, 2000, and June 15, 2001. On September 7, 2001, the undersigned advised his Australian associate that the Declaration for the above-identified U.S. patent application remained outstanding and forwarded a copy of the "Notice to File Missing Parts of Nonprovisional Application," which was mailed by the PTO on August 20, 2001.

The undersigned had overlooked the inclusion of the

Declaration, Small Entity Statement and Assignment sent with the two priority documents and mailed a copy of the August 20, 2001, Notice on September 7, 2001, calendared the initial deadline for response as Monday, October 22, 2001, and awaited eventual receipt of the outstanding Declaration for completion of the filing of the instant patent application.

Having already sent the required Declaration, the undersigned's Australian patent associate took no action in reply to his receipt of the undersigned's letter of September 7, 2001, reporting issuance of the "Notice to File Missing Parts of Nonprovisional Application," because he had already set the required Declaration, while the undersigned did not file the Declaration that he already had in his possession, because he had received the priority documents, but overlooked the fact that the Declaration and other documents were, in fact, included with the priority documents; the undersigned, instead, continued to await eventual receipt of the Declaration mistakenly thought to have been outstanding.

Having only recently noticed that a deadline remained outstanding from last year, the undersigned reviewed his file for this application to ask his Australian associate the status of this matter and to issue a statement for services previously rendered, instead found for the first time that the Declaration and other documents were binder-clipped in with the priority documents under the cover letter sent by

his Australian patent associate. The undersigned then contacted his Australian associate and advised of the earlier oversight, who promptly confirmed to the undersigned that the ultimate client, the inventor and the corporate entity to whom the application has been assigned, remained fully interested in the prosecution of the above-identified patent application. This Petition to Revive promptly followed.

The original deadline for filing the Declaration was Monday, October 22, 2001, two months from the date of mailing of the "Notice to File Missing Parts of Nonprovisional Application" by the Patent and Trademark Office on August 20, 2001." The application, therefore, had gone abandoned after October 22, 2001.

In support of this Petition to Revive, Applicant hereby submits the following documents and a check in the amount of \$1,115.00 to cover the fees listed below:

1. The Petition to Revive fee of \$640.00 (Small Entity), as per 37 C.F.R. §1.17(m).
2. A proposed response to the outstanding requirement (and other documents) is enclosed, as follows:
  - (a) Copy of the "Notice to File Missing Parts of Non-provisional Application," dated August 20, 2001;
  - (b) Declaration/Power of Attorney;
  - (c) The statutory filing fee of \$370.00 (Small Entity);

(d) The Surcharge fee of \$65.00 (Small Entity) for submission of the requisite Declaration after the filing date;

(e) Small Entity Statement (Small Business Concern);

(f) Substitute Specification with text on 8 " x 11" paper and the drawing figure on A-4 paper, along with a statement that no new matter has been added to the application;

(g) Assignment for recordation with requisite Assignment Cover Sheet and recordation fee of \$40.00;

(h) Certified copy of priority Australia Patent Application No. 43745/00, filed June 29, 2000; and,

(i) Certified copy of priority Australia Patent Application No. 51956/01, filed June 15, 2001.

The Office is hereby authorized to charge any additional fees which may be due in connection with the prosecution of the above-identified patent application to the undersigned's Deposit Account (Account No. 19-0450). A duplicate of this paper is enclosed for billing purposes.

With the concurrent submission of the foregoing documents and fees, Applicant respectfully submits that all outstanding requirements for set by the "Notice to File Missing Parts of Nonprovisional Application," dated August 20, 2001, have been met.

I hereby declare that all statements made herein on my own knowledge are true and that all statements made on infor-

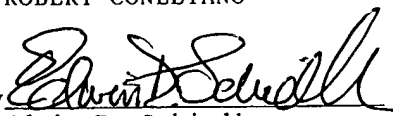
mation and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this petition is directed.

It is, therefore, respectfully submitted that the above-identified patent application should be held as being "unintentionally" abandoned, i.e., that the entire period of delay in filing the Declaration and fees for responding to the "Notice to File Missing Parts of Nonprovisional Application," dated August 20, 2001, was unintentional, for the reasons specified in this Petition, and that prosecution of the above-identified patent application should be resumed.

Such favorable action is respectfully requested and earnestly solicited.

Respectfully submitted,

ROBERT CONELIANO

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